

*In the Matter of Gloria Guevara, Customer Service Representative 3 (Special),*  
*Department of Transportation*  
DOP Docket No. 2004-1493  
**(Merit System Board, decided May 5, 2004)**

The Motor Vehicle Commission appeals the decision of Human Resource Information Services (HRIS), which returned Gloria Guevara's name to the special reemployment list for Customer Service Representative 3, Department of Transportation.

As background: In a letter dated May 7, 2003, the Department of Personnel informed Ms. Guevara that the appointing authority sought to remove her name from the subject special reemployment list due to an unsatisfactory employment history. Ms. Guevara appealed this decision to HRIS arguing that she had worked for the (former) Division of Motor Vehicles (DMV) from 1984 to 1995 without having any disciplinary action taken against her. Additionally, she added that she also worked for the private agency that took over her office when it was privatized from 1995 to 2003. Ms. Guevara also argued that at no time did she engage in or condone any fraudulent or otherwise illegal activities. In this regard, Ms. Guevara provided several examples of her attempts to prevent fraudulent activities. Further, she stated that although she was not trained in identifying fake documents, she did the best job she could. HRIS determined that the appointing authority had not sufficiently supported its request to remove Ms. Guevara's name from the list and restored her name to the special reemployment list for Customer Service Representative 3, Department of Transportation.

In the instant matter, the appointing authority argues that it is making every effort to eliminate the processing of fraudulent driver's licenses and other documents. In this regard, it contends that Ms. Guevara engaged in the processing of fraudulent motor vehicle documents and should have her name removed from the special reemployment list. In support of its contention, the appointing authority submits an internal investigation report into Newark agency employees which indicated Ms. Guevara processed automobile titles that had the odometer readings rolled back. Additionally, the report stated that Ms. Guevara processed a title that had been reported stolen in Pennsylvania. Further, the report alleged that Ms. Guevara was notarizing documents while at the agency, which is against the agency's policy. The report asserted that most of the documents notarized by Ms. Guevara involved a used car dealership that was engaged in writing bad checks to pay for its motor vehicle fees. Moreover, the report claimed that this used car dealership brought in many titles to be processed where it appeared it was "jumping" titles and forging signatures, which were notarized by Ms. Guevara. Finally, the appointing authority provided the supporting documentation accompanying the internal investigation report.

In response, Ms. Guevara, represented by *Ciro A. Spina, III, Esq.*, argues that she never engaged in the processing of fraudulent motor vehicle documents. Ms. Guevara claims that her supervisor allowed her to notarize documents so long as she checked the signatures. In this regard, Ms. Guevara states that she would always check the individual's photo identification and compare signatures. Additionally, Ms. Guevara contends that she initially rejected the titles that had odometer mistakes. However, her supervisor indicated that the discrepancies had been explained to him and that she should process the titles.

The appointing authority, despite being provided the opportunity, did not respond to Ms. Guevara's contentions that the activities in question were authorized by her supervisor.

## **CONCLUSION**

*N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)7*, allows the Merit System Board to remove an individual from an eligible list who has a prior employment history which relates adversely to the position sought.

In the instant matter, the appointing authority argues that Ms. Guevara engaged in the processing of fraudulent motor vehicle documents and as such should have her name removed from the subject special reemployment list. In this regard, the Board is mindful that the New Jersey Motor Vehicle Commission was instituted to address the multitude of functions assigned to it while curtailing fraudulent and criminal activities that present threats to the State's security system. *See N.J.S.A. 39:2A-2(z)*. However, while the information submitted by the appointing authority indicates that Ms. Guevara was *suspected* of processing fraudulent documents and of improperly notarizing documents, the information provided does not conclude or find that Ms. Guevara was actually guilty of these allegations. Additionally, the appointing authority submits no evidence that Ms. Guevara was either criminally charged or disciplined for these alleged activities. Further, Ms. Guevara's contentions that the activities in question were authorized by her supervisor were not contested by the appointing authority. Accordingly, the appointing authority has failed to show sufficient justification for removing Ms. Guevara's name from the special reemployment list for Customer Service Representative 3, Department of Transportation. Therefore, Ms. Guevara's name should remain on the subject special reemployment list.

## **ORDER**

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.